

**IN THE UNITED STATES DISTRICT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**THE UNITED STATES OF AMERICA,  
STATE OF CALIFORNIA, et. al., ex rel.  
MICHAEL YARBERRY,**

**Plaintiffs,**

**vs.**

**SEARS HOLDINGS COMPANY, INC.,  
and KMART, INC.,**

**Defendants.**

**MINUTES OF COURT  
AND MINUTE ORDER**

**Case No. 09-588-MJR-PMF**

DATE: August 26, 2013

LOCATION: Benton

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**PRESENT: HONORABLE PHILIP M. FRAZIER, U. S. MAGISTRATE JUDGE**

DEPUTY CLERK: Karen R. Metheney

COURT REPORTER: Michelle Zimmerman,  
Northcutt Reporting Service

COUNSEL FOR PLAINTIFFS: Paul B. Martins, James Tate, Julie Webster Popham,  
Timothy Keller, Dale Aschemann

COUNSEL FOR DEFENDANTS: Kimberly M. DeShano, Robert P. Charrow

PROCEEDINGS: Discovery Dispute Conference (telephonic)

Conference held. Argument heard. Plaintiffs' oral motion for a protective order is granted as follows. Draft reports prepared by Dr. Albright are protected under Rule 26(b)(4)(B) and need not be produced to the defendants. Plaintiffs' motion for an order requiring the defendants to reimburse Dr. Albright for the time spent preparing for his deposition and giving deposition testimony is also granted. Defendants shall pay Dr. Albright's reasonable fee of \$1400 per Rule 26(b)(4)(E). Defendants may seek reimbursement if Dr. Albright does not testify as an expert at trial.